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3 UNITED STATES DISTRICT COURT

4 DISTRICT OF NEVADA

5 ANTHONY MICHAEL GIOIOSA, SR.,

6 Plaintiff,

7 v.

8 JUVINILE HALL,

9 Defendant.

Case No. 2:22-cv-00112-GMN-NJK

10 ORDER

11 Plaintiff Anthony Michael Gioiosa, Sr. initiated this action by filing an untitled
12 document. (ECF No. 1-1) On January 25, 2022, this Court ordered Gioiosa to (1) submit
13 a complaint and (2) file a fully complete application to proceed *in forma pauperis* or pay
14 the full \$402 filing fee by March 25, 2022. (ECF No. 3). The Court warned Gioiosa that
15 the action could be dismissed if he failed to submit a complaint and file a fully complete
16 application to proceed *in forma pauperis* with all three documents or pay the full \$402
17 filing fee for a civil action by that deadline. (*Id.* at 3). That deadline expired and Gioiosa
18 did not file a complaint, a fully complete application to proceed *in forma pauperis*, pay the
19 full \$402 filing fee, or otherwise respond.

20 **I. DISCUSSION**

21 District courts have the inherent power to control their dockets and “[i]n the
22 exercise of that power, they may impose sanctions including, where appropriate . . .
23 dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831
24 (9th Cir. 1986). A court may dismiss an action based on a party’s failure to obey a court
25 order or comply with local rules. See *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir.
26 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to
27 keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th
28 Cir. 1987) (dismissal for failure to comply with court order). In determining whether to

1 dismiss an action on one of these grounds, the Court must consider: (1) the public's
 2 interest in expeditious resolution of litigation; (2) the Court's need to manage its docket;
 3 (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of
 4 cases on their merits; and (5) the availability of less drastic alternatives. See *In re*
 5 *Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting
 6 *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987)).

7 The first two factors, the public's interest in expeditiously resolving this litigation
 8 and the Court's interest in managing its docket, weigh in favor of dismissal of Gioiosa's
 9 claims. The third factor, risk of prejudice to defendants, also weighs in favor of dismissal
 10 because a presumption of injury arises from the occurrence of unreasonable delay in filing
 11 a pleading ordered by the court or prosecuting an action. See *Anderson v. Air West*, 542
 12 F.2d 522, 524 (9th Cir. 1976). The fourth factor—the public policy favoring disposition of
 13 cases on their merits—is greatly outweighed by the factors favoring dismissal.

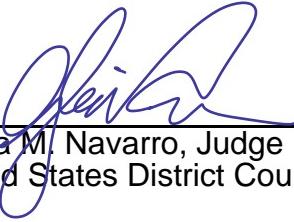
14 The fifth factor requires the Court to consider whether less drastic alternatives can
 15 be used to correct the party's failure that brought about the Court's need to consider
 16 dismissal. See *Yourish v. Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining
 17 that considering less drastic alternatives *before* the party has disobeyed a court order
 18 does not satisfy this factor); *accord Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th
 19 Cir. 2002) (explaining that “the persuasive force of” earlier Ninth Circuit cases that
 20 “implicitly accepted pursuit of last drastic alternatives prior to disobedience of the court’s
 21 order as satisfying this element[,]” i.e., like the “initial granting of leave to amend coupled
 22 with the warning of dismissal for failure to comply[,]” have been “eroded” by *Yourish*).
 23 Courts “need not exhaust every sanction short of dismissal before finally dismissing a
 24 case, but must explore possible and meaningful alternatives.” *Henderson v. Duncan*, 779
 25 F.2d 1421, 1424 (9th Cir. 1986). Because this action cannot realistically proceed until and
 26 unless Gioiosa submits a complaint and either files a fully complete application to proceed
 27 *in forma pauperis* or pays the \$402 filing fee for a civil action, the only alternative is to
 28 enter a second order setting another deadline. But the reality of repeating an ignored

1 order is that it often only delays the inevitable and squanders the Court's finite resources.
2 The circumstances here do not indicate that this case will be an exception: there is no
3 hint that Gioiosa needs additional time or evidence that he did not receive the Court's
4 order. Setting another deadline is not a meaningful alternative given these circumstances.
5 So the fifth factor favors dismissal.

6 **II. CONCLUSION**

7 Having thoroughly considered these dismissal factors, the Court finds that they
8 weigh in favor of dismissal. It is therefore ordered that this action is dismissed without
9 prejudice based on Gioiosa's failure to submit a complaint and file a fully complete
10 application to proceed *in forma pauperis* or pay the full \$402 filing fee in compliance with
11 this Court's January 25, 2022, order. The Clerk of Court is directed to enter judgment
12 accordingly and close this case. No other documents may be filed in this now-closed
13 case. If Gioiosa wishes to pursue his claims, he must file a complaint and resolve the
14 matter of the filing fee in a new case.

15
16 DATED THIS 5 day of April 2022.

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19 Gloria M. Navarro, Judge
20 United States District Court